

1 ADAM WANG. Bar No. 201233  
 2 LAW OFFICES OF ADAM WANG  
 3 12 South First Street, Suite 613  
 4 San Jose, CA 95113  
 5 Tel: (408) 292-1040  
 6 Fax: (408) 416-0248  
[waqw@sbcglobal.net](mailto:waqw@sbcglobal.net)

5 Attorney for Plaintiffs  
 6 BAO YI YANG, WEI WANG & LIANG-XIAN FU

7 **UNITED STATES DISTRICT COURT**  
 8 **FOR DISTRICT OF NORTHERN CALIFORNIA**

9 BAO YI YANG, ET AL,

10 Case No.: C07-04482 JL

11 Plaintiffs,

12 PLAINTIFFS' CASE MANAGEMENT  
 13 STATEMENT

14 vs.

15 SHANGHAI GOURMET, LLC ET AL

16 Defendants

17 In accordance with the Standing Order for All Judges of the Northern District of  
 18 California, the parties in this matter hereby submit this Joint Case Management Conference  
 19 Statement.

20 **1. JURISDICTION AND SERVICE**

21 The basis for the Court's subject matter jurisdiction over Plaintiffs' claims is the Fair  
 22 Labor Standards Act, 29 U.S.C. §§ 201 *et seq.*, as alleged in the Complaint.

23 Because Defendants counsel refused to accept service on behalf of new individual  
 24 Defendants Xu Liang Shen and tBo Juan Liu, these two defendants remain to be served.  
 25 Plaintiffs anticipate that these defendants will be served over the course of the week of  
 September 1, 2008.

26 There are no existing issues regarding personal jurisdiction or venue.

27 **2. FACTS**

1 Plaintiffs Bao Yi Yang, Wei Wang and Liang-Xian Fu were employed by Shanghai  
 2 Gourmet as restaurant workers during the four year period prior to the filing of his Complaint. In  
 3 this action, Plaintiffs seek overtime and other wage and hour claims against Defendants under  
 4 the authority of both federal and California laws.

5 The principal factual issues in dispute are:

6 1. Whether Plaintiffs have been paid less than minimum wage;  
 7 2. Whether Plaintiffs are owed any overtime wages.

8 Defendants deny that Plaintiffs are owed any back wages.

9 **3.     LEGAL ISSUES**

10 Plaintiffs assert that Defendants failed to pay them overtime pay in violation of California  
 11 Labor Code §§ 501 and 1194 as well as in violation of the Fair Labor Standards Act, 29 U.S.C.  
 12 §§ 201 *et seq.* Plaintiffs further allege that Defendants violated California Labor Code § 226.7  
 13 by failing to provide meal and rest periods to Plaintiffs. Plaintiffs further allege that Defendants  
 14 failed to pay Plaintiffs their wages upon termination in violation of California Labor Code § 201.  
 15 Finally, Plaintiffs seek restitution of overtime wages in accordance with California Business &  
 16 Professions Code § 17200.

17 **4.     MOTIONS**

18 The parties anticipate the filing of the following motions:

19 (a) Defendants' Motions for Partial Summary Judgment and/or Summary Judgment  
 20 to dismiss claims against individual defendants;

21 (b) Plaintiffs' Motion for Summary Adjudication

22 (c) Plaintiffs' Motion for Attorney's Fees.

23 **5.     AMENDMENT OF PLEADINGS**

24 Plaintiffs' Motion for Leave to File Second Amended Complaint is pending. Plaintiffs do  
 25 not anticipate any further amendments.

1        **6. EVIDENCE PRESERVATION**

2        Defendants have been notified by their counsel of the obligation to preserve all  
 3        electronically stored or other evidence, but it is not clear if Defendants have taken steps to do so  
 4        because the business has been sold.

5        **7. DISCLOSURES**

6        Plaintiffs have provided their initial disclosures.

7        **8. DISCOVERY**

8        Defendants have taken depositions of Plaintiffs Wei and Bao Yi Yang. Only two  
 9        depositions remain to be taken among parties—Plaintiff Liang-Xian Fu and Defendant Xu-Liang  
 10      Shen. Mr. Shen's deposition is noticed for September 17, 2008. Plaintiffs offer Defendants to  
 11      take Mr. Fu's deposition on October 2, 2008.

12      **9. CLASS ACTIONS**

13      N/A

14      **10. RELATED CASES**

15      There are no related cases or proceedings pending before another Judge of this Court or  
 16      before another Court or administrative body.

17      **11. RELIEF**

18      Plaintiffs see monetary damages.

19      **12. SETTLEMENT AND ADR**

20      ADR is compete.

21      **13. CONSENT TO MAGISTRATE JUDGE FOR ALL PURPOSES**

22      Parties consent to the assignment of this to a magistrate judge for all further proceedings.

23      **14. OTHER REFERENCES**

24      Plaintiffs do not believe that that this case is not suitable for a binding arbitration and do  
 25      not agree on any other reference.

15. **NARROWING OF ISSUES**

2 Plaintiffs do not anticipate an agreement to narrow issues. .

16. **EXPEDITED SCHEDULE**

4 Plaintiffs do not believe that this case can be put on an expedited schedule.

5. **SCHEDULING**6 Up to this date, Plaintiffs and propounded, and Defendants have produced written  
7 discoveries concerning liabilities and damages. The discoveries remaining are depositions of  
8 Plaintiff Mr. Fu and Defendant Mr. Shen; and discoveries concerning piercing corporate veil and  
9 fraudulent conveyance with respect to cause of actions concerning individual liabilities. If the  
10 Court grants Plaintiffs' motion for leave to file the Second Amended Complaint, Plaintiffs may  
11 proceed to trial quickly and request the following trial schedule:

12 (a) Fact discovery cutoff on October 31, 2008;

13 (b) Last day of hearing on dispositive motion on December 10, 2008;

14 (c) Trial: January 28, 2009

15 If the Court denies Plaintiffs' motion for leave to file a Second Amended Complaint,  
16 Plaintiffs request that Court schedule another case management conference, in that case Plaintiffs  
17 will need discoveries concerning Defendants financials addressing individual liabilities under  
18 theories of piercing veil and fraudulent conveyance.19. **TRIAL**

20 Parties have requested a jury trial. Plaintiffs estimate length of trial is 7 court days.

21. **DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS**

22 Plaintiffs have no one to report other than parties themselves.

23. **OTHER MATTERS**

24 None.

1 Dated: August 28, 2008

By: /s/ Adam Wang  
ADAM WANG  
Attorneys for Plaintiffs

4 DATED: November 23, 2007

5 By: /s/Arthur Liu  
6 Arthur Liu  
7 Attorneys for Defendants